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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FOO - 203760

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 15, 2021, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane Cty. Dept. of Human Services regarding FoodShare benefits (FS), a hearing was held on December 22, 2021, by telephone. The hearing record was held open through January 3, 2022 for additional evidence from both parties.

The issue for determination is whether the agency correctly discontinued petitioner's benefits effective October 1, 2021.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
Dane Cty. Dept. of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Beth Whitaker  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.

2. On or about August 31, 2021, petitioner initiated renewal of FS benefits.
3. Based on a wage match discrepancy, on September 1, 2021, the agency issued to petitioner a Notice of Proof Needed, regarding earned income, due by September 10, 2021.
4. On September 14, 2021, the agency mailed to petitioner a duplicate copy of the September 1, 2021 Notice of Proof Needed.
5. On October 8, 2021, the agency received from petitioner two pay stubs with no name of employee or employer and no pay date, which were insufficient to verify earned income.
6. On November 10, 2021, petitioner called the agency to inquire about her benefits and was told by telephone that her FS was terminated because the proof she provided was insufficient.
7. On November 10, 2021, petitioner completed a new FS application by telephone.
8. On November 12, 2021, the agency received proof of earned income and determined that petitioner was eligible for FS effective November 1, 2021.
9. On November 22, 2021, the Division received petitioner's request for hearing by U.S. Mail, postmarked November 15, 2021.

### **DISCUSSION**

The petitioner appealed the discontinuance of her FS benefits effective October 1, 2021. The agency apparently discontinued her benefits effective that date based on her failure to provide requested verification of earned income due on September 10, 2021. The agency requested the proof on September 1, 2021. It sent a duplicate request on September 14, 2021, without communicating any change in the deadline.

Verification is the use of documentary evidence or a collateral contact with a third party to confirm the accuracy of statements or information. The local agency must allow FS applicants/members at least ten days to provide required verification. FSH 1.2.1.

When FS closes for lack of verification after a change is reported or discovered, as long as the requested verification is provided in the calendar month following case closure. FSH 1.2.1.2. The applicant or member has primary responsibility for providing required verification and for resolving any discrepancies or questionable information. The local agency must assist the applicant or member in obtaining this verification, provided that the applicant or member has not refused to cooperate with the application process. FSH 1.2.1.3.

Petitioner conceded that she did not provide proof by the September 10, 2021 deadline. She testified that she attempted to fax paystubs to the agency on October 5, 2021, but that the faxes did not reach the agency. She then mailed or uploaded the paystubs on October 6, 2021. The agency did receive incomplete paystubs on October 8, 2021. Petitioner did not provide verification within the month following case closure. She failed to do so in October 2021, not because she refused to cooperate, but because she did not know that the documents she submitted were insufficient. She presented evidence of complete paystubs identifying the employer, employee and pay date, regarding her employment at [REDACTED]. These paystubs match the incomplete documents received by the agency. The agency did not assist petitioner in submitting verification by notifying her that the paystubs she submitted were insufficient to verify her earned income.

There is no evidence of notice to petitioner either after the September 10, 2021 verification deadline or after the incomplete October 8, 2021 documents were received, that the proof was inadequate or that her benefits were affected. There is no evidence in this record of a notice of adverse action, informing

petitioner that her FS benefits were terminated effective October 1, 2021. Based on this record, petitioner's first knowledge of the benefit termination occurred when she initiated a telephone communication with the agency on November 10, 2021. She completed a telephone application at that time and submitted the required earned income verification on November 12, 2021. She was found to be eligible for FS effective November 1, 2021 based on this new application. Petitioner's appeal to the Division appears to have been prompted by her telephone contact on November 10, 2021, not by receipt of written notice of any kind.

A notice of adverse or negative action, regarding the termination or reduction of benefits must be mailed at least 10 days before the effective date of the action. FSH 6.3.1. When verification is requested and not returned by the due date, each item that the applicant or member failed to verify must be updated to indicate it was not verified. This will ensure the notice of decision lists each item that was not verified. This is required for the notice to meet the federal definition of an adequate notice. FS 1.2.1.2.

The agency failed to provide adequate notice of adverse action to petitioner regarding termination of her FS benefits effective October 1, 2021.

### **CONCLUSIONS OF LAW**

The agency did not correctly discontinue petitioner's FS benefits effective October 1, 2021. The agency failed to provide at least ten days' notice that petitioner's benefits would be discontinued.

**THEREFORE, it is**

### **ORDERED**

That the matter is remanded to the agency to rescind the decision to discontinue petitioner's benefits effective October 1, 2021. The agency must provide retroactive benefits to the petitioner accordingly. The agency shall comply with this order within ten days of the date of this decision.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

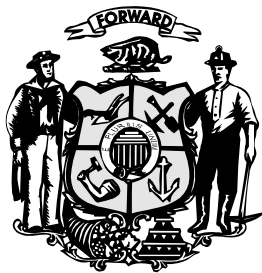
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 12th day of January, 2022

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Beth Whitaker  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 12, 2022.

Dane Cty. Dept. of Human Services  
Division of Health Care Access and Accountability